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**COURT OF APPEAL, FOURTH DISTRICT**

**DIVISION TWO**

**STATE OF CALIFORNIA**

In re TUNDE K., a Person Coming Under  
the Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

TUNDE K.,

Defendant and Appellant.

E030064

(Super.Ct.No. J174114)

**OPINION**

APPEAL from the Superior Court of San Bernardino County. Diane Anderson,  
Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed as modified.

Linda Acaldo, under appointment by the Court of Appeal, for Defendant and  
Appellant.

Bill Lockyer, Attorney General, Robert R. Anderson, Chief Assistant Attorney  
General, Gary W. Schons, Senior Assistant Attorney General, Carl H. Horst, Supervising  
Deputy Attorney General, and Kevin R. Vienna, Deputy Attorney General, for Plaintiff and  
Respondent.

On July 11, 2001, the minor admitted that he possessed a controlled substance for  
sale (Health & Safety Code, § 11351). The court dismissed the allegation that the minor

possessed cocaine base for sale. Following a contested dispositional hearing, the court committed the minor to the California Youth Authority (CYA) for a maximum term of four years four months and credited the minor with 46 days in custody. The minor contends that the juvenile court (1) abused its discretion in committing him to CYA, and (2) erred in calculating his custody credit. We affirm the judgment but agree that the minor's custody credits must be modified.

## I

### FACTS

On June 25, 2001, the minor, age 17, was stopped while walking on the street by a probation officer. The probation officer found what appeared to be rock cocaine in the minor's right front pocket. The minor admitted that he planned to sell the cocaine. The minor also stated that he smokes marijuana but does not use cocaine. The minor informed the officer that he was in a gang and had been since he was "jumped in" the previous summer in Fontana. The minor's moniker is "Little Evil."

The minor's criminal history began four months earlier. On February 23, 2001, the minor "ditched" class at San Bernardino High School where he attended and was detained at another high school. Campus security conducted a search, and a steak knife was found in his pocket. On February 28, 2001, the minor voluntarily admitted that he had a weapon on school grounds (Pen. Code, § 626.10, subd. (a)). On March 14, 2001, the minor was declared a ward of the court and maintained in the home of his grandmother on terms and conditions of probation, including completion of the Success program through the probation department. On June 6, 2001, the minor completed the Success program.

The probation officer stated it was his belief “that since the minor has had the services of the probation department including Success, the minor is in need of a more restrictive environment . . . .” He recommended placement where the minor could establish some internal controls, complete his education, and get some vocational training.

The court read and considered the probation officer’s report, as well as a letter written by the minor, the testimony presented in court, and the arguments by counsel. The court stated, “It is going to be my ruling in this matter to commit [the minor] to the California Youth Authority. In doing so, I have considered the following factors[:] the seriousness of the offense, in this matter the possession of a controlled substance in which [the minor] admits he intended to sell, the circumstances of the offense, his previous delinquency history including arrests not resulting in conviction and contacts with law enforcement which were not charged, the safety and protection of the public, the professional help, intensive counseling and school programs provided by the California Youth Authority, the rehabilitative aspects of punishment and a potential restitution commitment, unsuccessful attempts at rehabilitation which have included but are not limited to [the Success Program], probation, youth accountability board, and in spite of that, [the minor’s] behavior is escalating and it has done so in a very short period of time. [¶] I have also considered the following specific factors[:] [the minor’s] use of marijuana and alcohol, his membership in the Fontana [C]rips, his failure in school, including a GPA initially at 3.5 and dropping to 1.91, failure to cooperate with probation, [and] violation of court orders. . . .”

## II

### DISCUSSION

#### A. *CYA Commitment*

The minor contends that the juvenile court abused its discretion in committing him to CYA. We disagree.

We review a placement decision only for abuse of discretion. (*In re Asean D.* (1993) 14 Cal.App.4th 467, 473.) The court will indulge all reasonable inferences to support the decision of the juvenile court. (*Ibid.*) An appellate court will not lightly substitute its decision for that of the juvenile court; and the decision of the court will not be disturbed unless unsupported by substantial evidence. (*In re Eugene R.* (1980) 107 Cal.App.3d 605, 617.) The juvenile court may consider a commitment to CYA without previous resort to less restrictive placements. (*In re Asean D., supra*, at p. 473.) Lastly, “the 1984 amendments to the juvenile court law reflected an increased emphasis on punishment as a tool of rehabilitation, and a concern for the safety of the public.” (*Ibid.*)

Here, substantial evidence supports the juvenile court’s decision to commit the minor to CYA. The minor admitted to selling rock cocaine on a public street. This was only four months after the minor admitted to having a knife on school grounds. Both offenses occurred within a year after joining a Fontana gang. The minor had already been tried on probation and in the Success Program, which had no effect on his behavior. The court found that the minor would benefit from the education, discipline, and other treatment at CYA.

After a review of the entire record, we conclude that the juvenile court did not abuse its discretion by committing the minor to CYA.

B. *Custody Credits*

The minor contends that the juvenile court miscalculated his predisposition credits. The People concede the issue. We agree.

Conduct credits are computed on the first day of custody, beginning with the day of arrest. (*People v. Bravo* (1990) 219 Cal.App.3d 729, 735.) Thus, the court must award credit for all days in custody up to and including the day of sentencing. (*Ibid.*)

Here, the court awarded the minor 46 days' custody credit. However, the record shows the minor was in custody for the knife offense from February 23, 2001, through March 14, 2001, which is 20 days. The minor was in custody for the drug offense from June 25, 2001, through August 10, 2001, a period of 47 days. Accordingly, the minor is entitled to 67 days' credit.

III

DISPOSITION

The judgment is affirmed. The court is directed to modify the minute order to reflect that the minor has 67 days' credit for time served.

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RICHLI  
J.

We concur:

HOLLENHORST  
Acting P.J.

WARD  
J.